STATE HUMAN RIGHTS COMMISSION, TAMIL NADU
'Thiruvarangam'
No.143 P.S.Kumarasamy Raja Salai
(Greenways Road), Chennai-600 028.

Tuesday, the 21st day of December 2021

SHRC Case No.9141 of 2011

PRESENT :
HON'BLE THIRU D.JAYACHANDRAN, B.A., B.L.,
MEMBER.

Suo-motu cognizance taken on the basis of the news item appeared in the "Dinamalar" Tamil daily newspaper dated 27.11.2011.

(1) Tmt.Lakshmi
(2) Selvi.Rathika
(3) Selvi.Vaigeswari
(4) Tmt.Karthika
(5) Thiru Vellikannu
(6) Thiru Murugan
(7) Thiru Kumar @ Thumiti
(8) Thiru Kasi
(9) Thiru Elumalai
(10) Thiru Kumar
(11) Thiru Padaiyappa
(12) Thiru Manickam
(13) Thiru Renganathan
(14) Tmt.Valli
(15) Tmt.Selvi …Victims

-Vs-

(1)Thiru R.Srinivasan, Inspector of Police, Thirukoilur Police Station, Villupuram District.

(2)Thiru R.Ramanathan, SSI, Thirukoilur Police Station, Villupuram District. (Retired from service)

(3)Thiru R.Dhanasekaran, HC.500, Thirukoilur Police Station, Villupuram District.

(4)Thiru R.Bakthavachalam, PC.1687, Thirukoilur Police Station, Villupuram District.

(5)Thiru K.Karthikeyan, PC.826, Thirukoilur Police Station, Villupuram District.

… Respondents

ORDER

Suo-motu cognizance taken on the basis of the news item appeared in the "Dinamalar" Tamil daily newspaper dated 27.11.2011. It is stated in the news paper that on 26.11.2011 at about 01.30 PM one Lakshmi W/o Kasi of T.Mandapam Village, Thirukoilur presented a petition to the ADSP, Villupuram, alleging that her husband by name Kasi was picked up from her house at about 03.00 PM on 22.11.2011 by 3 policemen of Thirukoilur Police Station in a bike. Further at about 08.00 PM the petitioner Lakshmi was picked up along with her uncle Kumar, her two sisters-in-law Rathika D/o Murugan, Vaigeswari D/o Murugan and her co-sister Karthika, her aunt Selvi and her three brothers-in-law namely Padayappa aged about 12 years, Manickam aged about 10 years and Ranganathan aged about 8 years. She further stated in her petition that the above said police trespassed into her house and damaged their properties and taken away 4 cell phones, chargers, 10 sovereigns of gold jewels and cash of Rs.2000/-. She alleged that four police persons committed rape on her and three of her relatives viz. Rathika, Vaigeswari and Karthika at Thabovanam eucalyptus grove

on 22.11.2011 at night. The petitioner also stated in her petition that she along with her father-in-law Murugan, Vellikannu and others were taken to the police station and they were assaulted by the said police. Therefore, she prayed the police officials to take suitable action against the erring police officials. It is also stated in the news paper that one Professor Praba Kalvimani, Co-ordinator of Pazhangudi Irular Padukappu Iyakkam, was also present and the ADSP replied to them that he will send the complaint to the Superintendent of Police, Villupuram and suitable action will be taken in this matter.

2. This Commission after taking cognizance on suo-motu based on the news paper report of Dinamalar dated 27.11.2011 called for a report from the DIG, Villupuram Range to conduct proper enquiry and to submit a report. But on 09.12.2011 the report of the Superintendent of Police, Villupuram dated 01.12.2011 was received and the same was bereft of particulars and findings. Therefore, the ADGP, Investigation Wing of this Commission was requested to cause an enquiry and submit a report.

3. The Investigation Wing after conducting proper enquiry submitted the report on 18.04.2013 before this Commission. The ADGP, Investigation Wing of this Commission had stated in his report that all the alleged women victims were medically examined by the Doctors of Govt. Villupuram Medical College Hospital, Villupuram and the expert opinion was sought. The Director and

Professor, Institute of Forensic Medicine, Madras Medical College had opined that there are no evidences suggestive of forceful physical restraint on the body of all the four alleged victims and there are no evidences for forceful sexual intercourse in any of the four alleged victims. It is further stated in the report that departmental action was taken against the Respondents under Rule 3(e)(1)(ii) and 3(e)(1)(i) of Tamil Nadu Police Subordinate Service Rules 1955 and they were placed under suspension for having detained Lakshmi and three others on 22.11.2011 at night. The Officer also stated that all the Respondents/ police officials had committed violation of human rights. Though the police personnel did not humiliate the women as alleged, it was found to be illegal on the part of the police to pick up and detain the women at night time. Hence there is violation of human rights in this case.

4. After the perusal of the report, summonses were sent to the victims and also to the Respondent for their appearance and they also appeared before this Commission.

5. The defence of the Respondents as could be gathered from the counter statement filed by the 1st Respondent and adopted by the Respondents 2 to 5 is as follows:-

The suo-motu proceeding initiated against the Respondents is not sustainable in law and on facts. The Respondents never picked up Lakshmi and

others as stated in the news paper and they were falsely implicated in this case by some legal brain to gain monetary benefits from the Government by invoking the provision of SC/ST Act. The Respondents are not aware any occurrence as alleged in the news paper. The Respondents have become scope goat in the hands of a particular caste those who are active participants of unlawful and antisocial activities. The complaint lodged by Lakshmi against the police personnel of Thirukoilur police station is nothing but a black mail and threat by the antisocial elements belonging to that particular caste to achieve their ends. The victims and their relatives have no regard either for truth or for law or for courts and they are simply atrocious to come forward with this kind of false and vexatious complaint repeatedly. Therefore, it is humbly prayed that this Commission may be pleased to exonerate the Respondents.

45. It is essential to mention the Paragraph 25 of the judgment of the Hon'ble High Court of Madras reported in 2002(1)MWN(Cr.)237 is as follows:-

> "*25. Custodial crimes, as the dailies and monthly magazines give out the wild truth of atrocities of police due to the excesses exerted upon poor and hapless closely exhibit the violation of human dignity and destruction of human personality. There is no greater affront to human dignity than torture and inhuman treatment, which need to be condemned in strongest terms."*

It is also essential to mention Paragraph 25 of the judgment of the Hon'ble Supreme Court of India reported in 2012(4) CTC 781.

> *"25. In Bhim Sing, MLA v. State of J & K, 1985(4) SCC 677, this Court expressed the view that the Police Officers should have greatest regard for personal liberty of citizens as they are the custodians of law and order and, hence, they should not flout the law by stopping to bizarre acts of lawlessness. It was observed that custodians of law and order should not become depredators of civil liberties, for their duty is to protect and not to abduct."*

The above ruling is also squarely applicable to the case on hand.

46. Considering the materials on record and the arguments put forth by both the parties, it is established that the victim Lakshmi's husband by name Kasi was picked up from her house at about 03.00 PM on 22.11.2011 by 3 Respondent police of Thirukoilur PS in a bike and at about 08.00 PM Respondent police came in a van and the victim Lakshmi was picked up along with her uncle Kumar, her two sisters-in-law Rathika D/o Murugan, Vaigeswari D/o Murugan and her co-sister Karthika, her aunt Selvi and her three minor brothers-in-law namely Padaiyappa aged about 12 years, Manickam aged about 10 years and Renganathan aged about 8 years and the Respondent police trespassed into her house and damaged their properties and took the 4 victim women namely

Lakshmi, Rathika, Vaigeswari and Karthika at Thabovanam eucalyptus grove on 22.11.2011 at night and molested their modesty and she along with her father-in-law Murugan, Vellikannu, Kumar @ Thumiti S/o Manickam, Kasi, Elumalai and Kumar S/o Koothan were taken to the police station and they were assaulted by the Respondents police and detained them unlawfully up to 26.11.2011 and falsely implicated them in theft cases and remanded to judicial custody and they also picked up her aunt Valli to the police station and she was also assaulted by them. Therefore, it is very clear that all the women victims were taken from their home to the police station during the night time without assistance of women police officials and they were tortured and harassed by the Respondents and also detained the male persons in the police station unlawfully and they were severely assaulted by the Respondent police. Therefore, this Commission is of the considered opinion that the Respondents had violated the human rights of the above 15 victims namely (1) Lakshmi, (2) Rathika, (3) Vaigeswari, (4) Karthika, (5) Vellikannu, (6) Murugan, (7) Kumar @ Thumiti, (8) Kasi, (9) Elumalai (10) Kumar, (11) Padaiyappa, (12) Manickam, (13) Renganathan, (14) Valli and (15) Selvi . This point is answered accordingly.

47. **Point No.2** :- This Commission has already held that the Respondents had violated the human rights of the above 15 victims. It is now a well accepted proposition in most of the jurisdiction, that monetary or pecuniary compensation

is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants. Hence this Commission is of the considered view that the above 15 victims are entitled to receive compensation for the violation of human rights and fixing of Rs.75,00,000/- (Rupees Seventy Five Lakhs only) as compensation to the above 15 victims would be fair and reasonable and would meet the ends of justice. Hence this Commission holds that the victims No.1 to 4 are entitled to get Rs.10,00,000/- each(deducted Rs.5 Lakhs each which was already received by the victims No.1 to 4 from the Government and therefore the victims No.1 to 4 are entitled to get Rs.5 Lakhs each and totally Rs.20 Lakhs), the victims No.5 to 15 are entitled to get Rs.5,00,000/- each (Rs.5 Lakhs x 11 = Totally Rs.55 Lakhs) and the grand total comes Rs.75,00,000/-(Rs.20 Lakhs+Rs.55 Lakhs= Rupees Seventy Five Lakhs only).

48. It is essential to cite the judgment of the Hon'ble Supreme Court of India reported in AIR 1997 SC 610 in D.K.Basu Vs. State of West Bengal on the aspect of vicarious liability of the employer. The Court held as follows:-

> *"Thus, to sum up, it is now a well accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the*

only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts.

The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, in addition to the traditional remedies and not it derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit".

49. Hence this Commission holds that the victims No.1 to 15 are entitled to receive a compensation of Rs.5,00,000/- each (Rupees Five Lakhs only) (Totally Rs.75,00,000/- Rupees Seventy Five Lakhs only) payable by the Government of Tamil Nadu for the violation of human rights of the Respondents, who are the employees of the Government of Tamil Nadu. The departmental action already initiated against the Respondents and the same is pending. Therefore, no need for passing orders as to the initiation of disciplinary proceedings against the Respondents. This Point is answered accordingly.

50. In the result, this Commission recommends as follows:-

(i) The Government of Tamil Nadu shall pay a compensation of Rs.5,00,000/- each to the victims No.(1) Lakshmi, (2) Rathika, (3) Vaigeswari, (4) Karthika, (5) Vellikannu, (6) Murugan, (7) Kumar @ Thumiti, (8) Kasi, (9) Elumalai (10) Kumar (11) Padaiyappa, (12) Manickam, (13) Renganathan, (14) Valli and (15) Selvi (Totally Rs.75,00,000/- Rupees Seventy Five Lakhs only) within one month from the date of receipt of a copy of this Recommendation for the violation of human rights committed by the Respondents against the above 15 victims.

(ii) The Government of Tamil Nadu to instruct the Director General of Police, Tamil Nadu to pass final order in the departmental action initiated against the Respondents within three months.

(iii) The Government of Tamil Nadu to instruct the Director General of Police, Tamil Nadu to file the final report before the competent court in the criminal case registered against the Respondents in Thirukoilur PS Cr.No.887/2011 U/s 323,427,363,380,376 of IPC and Section 3(i)(xii) of SC/ST Act which is long pending for the past 10 years for filing of final report.

Sd/-
MEMBER

To

The Principal Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai – 600 009

Copy to

(1)Tmt.Lakshmi
W/o Kasi
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(2)Selvi.Rathika
D/o Murugan
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(3)Selvi.Vaigeswari
D/o Murugan
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(4)Tmt.Karthika
W/o Vellikannu
T.K.Mandapam
Thirukoilur Tk.
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(5)Thiru Vellikannu
S/o Murugan
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(6)Thiru Murugan
S/o Manickam

T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(7)Thiru Kumar @ Thumiti
S/o Manickam
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(8)Thiru Kasi
S/o Murugan
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(10)Thiru Kumar
S/o Koothan
Irular Kudiyiruppu
Kandamanadi
Villupuram Dt.-605 401

(11)Thiru Padaiyappa
S/o Murugan
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(12)Thiru Manickam
S/o Murugan
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(13)Thiru Renganathan
S/o Murugan
T.K.Mandapam
Thirukoilur Tk.

Villupuram Dt.-605 766

(14)Tmt.Valli
W/o Murugan
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

(15)Tmt.Selvi
W/o Kumar
T.K.Mandapam
Thirukoilur Tk.
Villupuram Dt.-605 766

Mmk 21.12.2021

//BY ORDER//

Assistant Registrar I/c